

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

MIAMI DIVISION

ADT, LLC; and The ADT Security Corporation,

Plaintiffs/Counterclaim

Defendants,

vs.

VIVINT SMART HOME, INC., f/k/a
MOSAIC ACQUISITION CORP.; and
LEGACY VIVINT SMART HOME, INC.,
f/k/a VIVINT SMART HOME, INC.,

Defendants/Counterclaimants.

) Cause No.
) 20-cv-23391-
) COOKE/GOODMAN

VIDEO ZOOM DEPOSITION OF TERRELL HARRIS
Taken on behalf of the Plaintiffs/Counterclaim
Defendants

December 9, 2021

Sheryl A. Pautler, RPR,
MO-CCR 871, IL-CSR 084-004585

(The proceedings began at 10:39 a.m.)

Job No. CS4979796

<p>1 QUESTIONS BY: PAGE NO. 2 Mr. Eblen 6 3 Mr. Steward 13 4 5 INDEX OF EXHIBITS 6 (No exhibits marked.) 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p>Page 2</p> <p>1 APPEARANCES 2 For the Plaintiffs/Counterclaim Defendants via Zoom: 3 4 Mr. Charles C. Eblen Shook, Hardy & Bacon, LLP 2555 Grand Boulevard 5 Kansas City, Missouri 64108 816-474-6550 6 Ceblen@shb.com 7 8 For the Defendants/Counterclaimants via Zoom: 9 Mr. Matthew A. Steward Clyde Snow & Sessions 201 South Main Street, Suite 1300 10 Salt Lake City, Utah 84111 801-322-2516 11 Mas@clydesnow.com 12 13 For the Defendants/Counterclaimants via Zoom: 14 15 Mr. Gregory W. Herbert Ms. Savannah Young Greenberg Traurig, P.A. 16 450 South Orange Avenue, Suite 650 Orlando, Florida 32801 17 407-420-1000 Herbert@gtlaw.com 18 19 The Court Reporter: 20 Ms. Sheryl Pautler Veritext Legal Solutions 21 22 23 24 The Videographer: 25 Mr. Rick Deasley Veritext Legal Solutions</p> <p>Page 4</p>
<p>1 UNITED STATES DISTRICT COURT 2 SOUTHERN DISTRICT OF FLORIDA 3 MIAMI DIVISION 4 ADT, LLC; and The ADT Security Corporation,) 5) Plaintiffs/Counterclaim) 6 Defendants,)) Cause No. 7 vs.) 20-cv-23391-) COOKE/GOODMAN 8 VIVINT SMART HOME, INC., f/k/a) MOSAIC ACQUISITION CORP.; and) 9 LEGACY VIVINT SMART HOME, INC.,) f/k/a VIVINT SMART HOME, INC.,) 10) Defendants/Counterclaimants.) 11 12 ZOOM VIDEO DEPOSITION OF WITNESS, TERRELL 13 HARRIS, produced, sworn, and examined on the 14 9th day of December, 2021, between the hours of 15 ten o'clock in the forenoon and eleven o'clock 16 in the forenoon of that day, via Veritext Zoom, 17 before SHERYL A. PAUTLER, RPR, Certified 18 Shorthand Reporter within and for the State of 19 Illinois and Certified Court Reporter within 20 and for the State of Missouri, in a certain 21 cause now pending before the United States 22 District Court, Southern District of Florida, 23 Miami Division, wherein ADT, LLC, et al. are 24 the Plaintiffs, and VIVINT SMART HOME, INC., et 25 al. are the Defendants.</p> <p>Page 3</p>	<p>Page 5</p> <p>1 IT IS HEREBY STIPULATED AND AGREED, by and 2 between counsel for Plaintiffs and counsel for 3 Defendants, that the deposition of TERRELL 4 HARRIS may be taken in shorthand by Sheryl A. 5 Pautler, shorthand reporter, and afterwards 6 transcribed into typewriting; and the signature 7 of the witness is expressly waived. 8 * * * * * 9 TERRELL HARRIS, 10 of lawful age, being produced, sworn and examined on 11 behalf of the Plaintiffs/Counterclaim Defendants, 12 deposes and says: 13 THE VIDEOGRAPHER: Today is Thursday, 14 December 9, 2021. We'll go on the record at 15 10:39 a.m. We are here to take the deposition 16 of Terrell Harris in Case No. 17 20-cv-23391-Cooke/Goodman in the U.S. District 18 Court for the Southern District of Florida, 19 Miami Division. 20 Will counsel state their names and 21 affiliations for the record, please. 22 MR. EBLEN: Yes. Charlie Eblen for ADT 23 and CPI. 24 MR. STEWARD: Matt Steward and Greg 25 Herbert on behalf of the defendant, Vivint.</p>

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1 THE VIDEOGRAPHER: Will the court reporter
 2 please swear the witness.
 3 (Whereupon the witness responded
 4 "yes, ma'am" to the oath
 5 administered by the court
 6 reporter.)
 7 [EXAMINATION]
 8 QUESTIONS BY MR. EBLEN:
 9 Q. Good morning. How are you today?
 10 A. Me?
 11 Q. Yeah.
 12 A. Oh, pretty good.
 13 Q. Could you introduce yourself, please, for
 14 the jury?
 15 A. My name is Terrell Harris.
 16 Q. Mr. Harris, where do you live?
 17 A. Kansas City, Missouri.
 18 Q. What's your address?
 19 A. 4705 Harvard Avenue.
 20 Q. Who else lives with you at that address?
 21 A. My wife, Alaina Harris.
 22 Q. Anyone else?
 23 A. No, sir.
 24 Q. How long have you lived there?
 25 A. Three -- three years.

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1 Q. Give us a little bit of an idea about your
 2 educational history and your job history.
 3 A. My education history, I have a master's
 4 degree. Education -- I'm sorry. Job, I worked at
 5 the Kansas Star for ten years. Then I worked at
 6 Shook for nine.
 7 Q. What was your position at Shook?
 8 A. Litigation support.
 9 Q. Did you work for Shook or a vendor?
 10 A. I worked for a vendor. Alexa -- Accela.
 11 Q. And was Accela your employer?
 12 A. Yes, sir.
 13 Q. All right. I would like to direct you to,
 14 in September of 2021, did you have an alarm system
 15 with the company called Vivint?
 16 A. No, I did not have.
 17 MR. STEWARD: I'm sorry. Objection, form,
 18 leading.
 19 Q. (By Mr. Eblen) Who was your alarm provider
 20 in September of 2021?
 21 A. ADT.
 22 Q. Have you ever had a contract for any type
 23 of product or service with a company called Vivint?
 24 MR. STEWARD: Objection.
 25 A. No.

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1 MR. STEWARD: I'm sorry, Mr. Harris. I'm
 2 going to, from time to time, lodge an objection
 3 to the question.
 4 Objection to form, leading. Thank you. I
 5 apologize for interrupting.
 6 Q. (By Mr. Eblen) You can answer.
 7 A. No, sir.
 8 Q. All right. Do you recall in September of
 9 2021 any door-to-door solicitors approaching your
 10 home?
 11 A. Yes, sir.
 12 MR. STEWARD: I'm sorry. Same objection,
 13 form, leading.
 14 Q. (By Mr. Eblen) What company approached
 15 your home in September of 2021?
 16 A. Vivint.
 17 Q. All right. Okay.
 18 MR. STEWARD: I'm going to apologize. Let
 19 me make an objection. Form, foundation.
 20 Q. (By Mr. Eblen) I'm going to -- I'm going
 21 to share my screen with you and play a video for you
 22 real quick. Okay? All right. Can you see what's
 23 pulled up on the screen here, Mr. Harris?
 24 A. Yes, sir.
 25 Q. Do you recognize the still image of what's

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1 being depicted on the screen right here?
 2 A. Yes.
 3 Q. What do you see?
 4 A. I see a gentleman holding an iPad type
 5 device, trying to hide his face.
 6 Q. And do you recognize -- looking out from
 7 that advantage point, can you tell where that is?
 8 A. That's -- that's my home.
 9 Q. And where was this image captured?
 10 A. On my front porch.
 11 Q. And what captured that image?
 12 A. Ring camera.
 13 Q. To your knowledge, how does the Ring
 14 camera work?
 15 A. It captures motion.
 16 Q. And when it captures motion, based on your
 17 experience using that device, what does it do?
 18 A. It records video and audio.
 19 Q. All right. I'm going to go ahead and hit
 20 play on this. And just sit tight. I'm going to
 21 play the video all the way through. Okay?
 22 A. Yes, sir.
 23 (Video playing.)
 24 Q. (By Mr. Eblen) Okay. Were you able to
 25 watch that okay, Mr. Harris?

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1 A. Yes, sir.

2 Q. All right. And did the video that we

3 watched, did that fairly and accurately represent

4 what you recall occurring on your doorstep?

5 A. Yes, sir.

6 Q. Okay. And you see in the lower right-hand

7 of what's still on the screen on the video, does

8 it -- does it appear that there's a date and time on

9 there?

10 A. Yes.

11 Q. Is that date and time stamp, to your

12 recollection, is that accurate?

13 A. Yes.

14 Q. Early on in the process, did you hear the

15 gentleman on your doorstep say something to the

16 effect of that they were the ones who installed your

17 equipment; did you hear that?

18 A. Yes, I did. That's when I started to get

19 angry.

20 Q. Was that an accurate representation that

21 he made to you?

22 A. No. Because I was -- I was in the home

23 when ADT installed it.

24 Q. All right. I'm going to take this -- this

25 down now.

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1 Just tell me generally, how did you

2 feel about that transaction that you had or that

3 interaction that you had with the gentleman from

4 Vivint?

5 A. Angry. And I was a little worried because

6 he did have my correct information as far as the

7 name, what I was paying and my phone number. So I

8 was just -- I did look -- look them up after he

9 left.

10 Q. Do you have any knowledge as to how he

11 obtained the information that you just described?

12 A. No, I don't.

13 Q. Did you do any further investigation to

14 determine how he had that information about your

15 account?

16 A. I just looked up the company on Facebook

17 and Google. But, no, I have no idea how he got my

18 information.

19 Q. So after this video was captured, how were

20 you able to access it if you want to, to -- either

21 to view it or send it to someone else?

22 A. You go into the Ring app.

23 Q. And did you do that after this

24 transaction?

25 A. Yes.

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1 Q. Did you watch the transaction again

2 afterwards?

3 A. Yes, I did.

4 Q. And any time that you've looked at it, has

5 what's been depicted on the recording been

6 consistent with your memory of what occurred that

7 day?

8 A. Yes.

9 Q. So other than the gentleman at the door,

10 there were two voices that are on the recording.

11 Who are the two voices?

12 A. That's me and my wife.

13 Q. Since the recording, has anything happened

14 to your knowledge that altered what's depicted on

15 the Ring doorbell video?

16 A. No.

17 Q. Are you working right now, Mr. Harris?

18 A. I am not.

19 Q. Okay. Why not?

20 A. I had a stroke in 2016. And I did come

21 back to work after a year and a half, but then COVID

22 happened and I was let go.

23 Q. And how are you doing now?

24 A. Okay. Still doing therapy. You can see I

25 got some -- a little bit of droop and I still have

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1 paralysis in my right hand.

2 Q. Were you able to identify the name of the

3 gentleman from Vivint?

4 A. I was not.

5 Q. Did you call Vivint to report his conduct?

6 A. I -- I did on Facebook. I found them.

7 Q. Did you send the video to Vivint?

8 A. I did not send the video to Vivint. I

9 sent it to ADT.

10 Q. Did you ever call Vivint?

11 A. No. Just that brief Facebook interaction.

12 Q. Did they ever respond to you?

13 A. They did.

14 Q. And what was their response?

15 A. That they would look into it. And they

16 thanked me for contacting them.

17 Q. Did you ever hear from Vivint after you

18 reported the conduct to them on Facebook?

19 A. No.

20 MR. EBLIN: All right. Those are all the

21 questions I have for you today. Thank you.

22 [EXAMINATION]

23 QUESTIONS BY MR. STEWARD:

24 Q. Hi, Mr. Harris. My name's Matt Steward

25 and I'm one of the attorneys who represents Vivint.

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1 Thank you for being here today. I just have a few
2 questions for you if that's okay.
3 A. Yes, sir.
4 Q. You mentioned that you had worked for the
5 law firm of Shook Hardy Bacon; is that right?
6 A. Yes, sir.
7 Q. And approximately what were the dates that
8 you worked for Shook Hardy Bacon?
9 A. I think I started in April of 2009. Wait.
10 No. I lost my -- I got -- I lost my job at the Star
11 in 2009. I started at -- the company changed names.
12 It wasn't Novatech. It was something else back
13 then. I can't remember the company's name when I
14 first started at Shook.
15 Q. That's fine.
16 When did you last provide any work or
17 services for the Shook Law Firm?
18 A. I think that was in '19.
19 Q. Okay. Did you ever work on any matters
20 that involved the company ADT?
21 A. No, sir.
22 Q. Okay. Did you ever work with Mr. Eblen?
23 A. To my knowledge, no. Can I --
24 Q. Yes, please. Go ahead.
25 A. Like in my department that I worked with

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1 that partners with Shook, I worked with the --
2 usually with the assistants and the -- oh, my
3 goodness, what are the names?
4 Q. Maybe the paralegals?
5 A. Legals. Thank you. Paralegals. So very
6 rarely directly with the attorneys.
7 Q. Okay. Thank you for you that.
8 It sound -- it sounded to me like you
9 maybe joined the -- the interaction with the sales
10 representative after the interaction had started.
11 Is that right or were you present the whole time
12 with your wife?
13 A. No. That's -- that is correct. I was
14 listening to my wife.
15 Q. And what's your wife's -- what's your
16 wife's name?
17 A. Alaina.
18 Q. Alaina.
19 A. Harris.
20 Q. Did your interaction with the sales
21 representative depicted in that video cause you to
22 cancel your ADT service?
23 A. No, it did not.
24 Q. Did that interaction cause you to suspend
25 or delay your monthly payment to ADT?

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1 A. No.
2 Q. Are you still an ADT customer?
3 A. Yes, sir.
4 Q. Do you know the duration of your ADT
5 contract, when it expires?
6 A. I want to say three years, but I'm not
7 positive.
8 Q. Okay. And do you recall, you mentioned
9 you had a Facebook interaction with somebody. Do
10 you recall the substance of your post? Sounds like
11 you didn't provide the Ring video, but that you
12 provided some description of the interaction; is
13 that right?
14 A. Yes.
15 Q. And let me ask, do you know approximately
16 when that was? Was it shortly after the interaction
17 on September, I think, 25?
18 A. It would have been that same day.
19 Q. The same day. Okay.
20 And that was -- sounded like that was
21 the only contact you had with Vivint, was that
22 Facebook post?
23 A. Yes.
24 Q. And you had indicated that you had looked
25 the rep up. But I just wanted to clarify. Sounds

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1 like you looked up the company, not the individual
2 rep; is that right?
3 A. Because I didn't get his name on his
4 badge. So, no, I did not look up the individual.
5 Q. Okay.
6 MR. STEWARD: Those are all the questions
7 I have. Thanks for being here. I did want to
8 let you know that based on your providing the
9 Ring video, the sales representative has been
10 terminated. His employment has been
11 terminated. So I did want to let you know
12 that.
13 MR. EBLEN: I don't have any additional
14 questions either. Thank you very much for your
15 time today, Mr. Harris.
16 MR. STEWARD: I appreciate it. Thank you,
17 Mr. Harris. Have a good holiday.
18 THE COURT REPORTER: Signature?
19 Signature.
20 MR. EBLEN: Mr. Harris, you have the
21 opportunity, if you wish, to get a copy of the
22 transcript that's generated from this
23 proceeding today. And if want to read it and
24 make, you know, changes for typos and things
25 like that, you can. You don't have to. You

<p style="text-align: right;">Page 18</p> <p>1 can waive it and not do that. But it's 2 entirely up to you. 3 THE WITNESS: I'll waive it. 4 MR. EBLEN: Okay. Thank you. 5 THE VIDEOGRAPHER: We're going off the 6 record at 11:00 a.m. 7 (Whereupon signature was 8 waived.) 9 (Off the record at 11:00 a.m.) 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	
<p style="text-align: right;">Page 19</p> <p>1 CERTIFICATE OF REPORTER 2 I, Sheryl A. Pautler, RPR, Certified Court 3 Reporter (MO), Certified Shorthand Reporter 4 (IL), do hereby certify that the witness whose 5 testimony appears in the foregoing deposition 6 was duly sworn by me; the testimony of said 7 witness was taken by me to the best of my 8 ability and thereafter reduced to typewriting 9 under my direction; that I am neither counsel 10 for, related to, nor employed by any of the 11 parties to the action in which this deposition 12 was taken, and further that I am not a relative 13 or employee of any attorney or counsel employed 14 by the parties thereto, nor financially or 15 otherwise interested in the outcome of the 16 action. 17 18 19  20 Certified Court Reporter (MO) 21 Certified Shorthand Reporter (IL) 22 23 24 25</p>	

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

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COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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